IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1010 OF 2003

IN

SUIT NO. 5098 OF 2000

M/s NPCC Singapore Pts Ltd .. Plaintiffs

versus

M/s Daewoo Ship Building Heavy Machi.Ltd & ors Defts

..

Mr.V.R.Dhond i.b Mr.R.A.Fernandes for Plaintiff

Mr.Prakash Shinde i/b M.Dhruv &Co for Deft no.3

Mr.Madhur Boya for Deft nos. 2,2 (a) 2 (b) & 2 (c)

Mr.S.R.Rajguru for Union of India

Mr.G.D.Bhosale for D.R.I.

CORAM : D.G. KARNIK, J

DATED : 8th April 2005.

P.C:-

1. Heard learned counsel for the parties and also heard Mr. Bhosale for the Department of Revenue Intelligence, Union of India, on notice.

2. The plaintiff and the defendant no. 1 entered

into a consortium which entered into a contract with the defendant no.3. According to the plaintiff, certain sums of money is due and payable by the defendant no. 3 to the consortium of the plaintiff and the defendant no.1 which the plaintiff is entitled to receive. This motion is therefore taken out by the plaintiff for direction to the defendant no. 3, who admits the amount to be due, for direction to deposit the money. Learned counsel for the plaintiff does not press relief (a) at this stage.

3. By filing an affidavit dated 18th June, 2003 sworn by Mr.Ajay kumar Banka the defendant no. 3 has admitted that final payment of US dollars 4,24,008 is payable by the defendant no. 3 to the defendant no.2. It is further stated that the payment could not be released because it received a letter from the Department of Revenue Intelligence, not to release the payment on account of certain evasion of customs duty by the defendant nos. 1 and 2.

4. Today at the hearing of the motion, learned counsel for the Department of Revenue Intelligence, Union of India states that it has no objection for the dues being brought into this court and invested by

this court. Learned counsel for the defendant no.3 also states that it has no objection for depositing the amount provided it is discharged to the extent of the money deposited in the court. Learned counsel for the defendant nos. 1 and 2 also states that it has no objection for passing such an order. Hence, by consent of the parties, I pass the following order :

" (a) The defendant no.3 is directed to deposit the sum of US dollars 4,24,008 in this court within four weeks. On such deposit the defendant no. 3 shall be discharged to the extent of the money deposited in this court. On deposit of the money, the same shall be invested in the Bank of India, Main Branch, Fort, Mumbai initially for a period of six months to be renewed from time to time for like periods until disposal of the suit or till further orders. Parties shall give notice to the Department of Revenue Inteligence, Union of India in the event any of them wants to apply for withdrawal of the amount.

(b) It is clarified that this order is passed

on consent of the parties who have given the consent without prejudice to their rights and contentions in the suit.

(c) Motion disposed of in aforesaid terms. "

D.G.KARNIK, J